tablets only to designated retailers, who in turn bound themselves to maintain the prices fixed by the plaintiff. *Held*, that the system of contracts is void at common law as in restraint of trade. *W. H. Hill Co.* v. *Gray & Worcester*, 127 N. W. 803 (Mich.).

The seller's right to fix the price at which the goods may be resold by the buyer, if a single transaction appears, is undoubted. *Garst* v. *Harris*, 177 Mass. 72. The seller should have the same right, as an incident to his property in the goods, when he sells to many buyers. That these buyers must all sell the goods at the same price is not an undue restraint of trade. *Dr. Miles Medical Co.* v. *Platt*, 142 Fed. 606; *Park & Sons Co.* v. *National Wholesale Druggists' Ass'n*, 175 N. Y. 1. *Contra*, *Park & Sons Co.* v. *Hartman*, 153 Fed. 24. The contracts cannot be illegal as tending toward monopoly, for before the contracts are made the seller necessarily has a monopoly over his own goods. He gains no greater control over the market than he already had. *Dr. Miles Medical Co.* v. *Jaynes Drug Co.*, 149 Fed. 838. A combination to injure a merchant by preventing him from obtaining goods is unlawful. *Delz* v. *Winfree*, 80 Tex. 400. Also, two competitors may not enter into an agreement to keep up the price. *More* v. *Bennett*, 140 Ill. 69. But the present case presents neither of these vicious elements. To uphold the contracts would simply allow freedom of trade to the manufacturer to do what he will with his own. *Elliman* v. *Carrington*, [1901] 2 Ch. 275.

RESTRAINTS ON ALIENATION — VALIDITY OF RESTRAINT ON ALIENATION OF FEE WHEN QUALIFIED AS TO TIME. — A conveyed land in fee to B, his son, reserving to himself an interest for life in the rents and profits, and with a condition that B should not sell during A's life. *Held*, that the condition is valid. *Fraszier* v. *Combs*, 130 S. W. 812 (Ky.).

A complete prohibition against the alienation of a vested legal estate in fee is void. See GRAY, RESTRAINTS ON THE ALIENATION OF PROPERTY, §§ 13–26, 105, 113. By the weight of authority a condition or direction to this effect is void, although the suspension of the power of alienation is for a limited time. *Potter* v. *Couch*, 141 U. S. 296, 315; *Mandlebaum* v. *McDonell*, 29 Mich. 78; *In re Rosher*, 26 Ch. D. 801. But a doctrine which seems to have had its origin in unconsidered *dicta*, that a restraint for a reasonable length of time is valid, has become firmly established in Kentucky and Ontario. *Stewart* v. *Brady*, 3 Bush (Ky.) 623; *Lawson* v. *Lightfoot*, 27 Ky. L. Rep. 217; *Earls* v. *McAlpine*, 27 Grant Ch. (Ont.) 161. By statute in Kentucky, the rule against perpetuities applies to conditions and directions restraining alienation. STATS. KY., 1909, § 2055. The doctrine can therefore have no disastrous results in that state, and in order to avoid litigation as to the reasonableness of any particular restraint, the courts might well go to the extent of holding that all restraints which do not violate the rule are good. See *Johnson's Trusts* v. *Johnson*, 25 Ky. L. Rep. 2119; *Morton's Guardian* v. *Morton*, 120 Ky. 251. It has recently been held, however, in a decision disapproving of the doctrine to which the courts of the state are committed, that a restraint for the life of the devisee is unreasonable. *Harkness* v. *Lisle*, 117 S. W. 264 (Ky.).

SPECIFIC PERFORMANCE — DEFENSES — LACK OF MUTUALITY OF REMEDY. — In a contract of employment with the plaintiff company, the defendant covenanted not to compete with the plaintiff company during the term of employment or for seven years thereafter. During the term of employment, an order was made to wind up the company, and the defendant was given notice that his services would not be required further and that his salary would be discontinued. The defendant began to compete with the company, who sought to enjoin him. *Held*, that he cannot be enjoined. *Measures Bros., Ltd.* v. *Measures*, [1910] 2 Ch. 248.

A sufficient basis for refusing the injunction (whether the covenant not to

compete is severable from the rest of the contract or not), is lack of mutuality of remedy, as the defendant could not obtain performance of the plaintiff's promise. See 23 HARV. L. REV. 294; 3 COL. L. REV. 1. Although the court does not rest its decision on this ground alone, it really adopts the doctrine, the Master of the Rolls saying, "The plaintiffs have not given and cannot in future give, the defendant this consideration. . . . The plaintiffs are not entitled against the defendant to specific performance . . . without performing, and they cannot perform, the clauses which that agreement contains in favor of the defendant. . . . It would be inequitable if the plaintiffs could have that relief." The case is consequently a welcome addition to the authorities supporting this theory of mutuality.

TRADE-MARKS AND TRADE-NAMES — MARKS AND NAMES SUBJECT OF OWNERSHIP — DESCRIPTIVE WORDS IN FOREIGN LANGUAGE. — The plaintiff manufactured a wine, which it called Tipo Chianti. Later the defendant offered its wine under the name Tipo Puglia. "Tipo" is a common Italian word, meaning "of the nature of." On the ground that "Tipo" was its trade-mark, the plaintiff obtained a temporary injunction, restraining the defendant from using the term. *Held*, that the injunction cannot be sustained. *Italian Swiss Colony* v. *Italian Vineyard Co.*, 110 Pac. 913 (Cal., Sup. Ct.).

The office of a trade-mark is to point out distinctively a maker's goods, so that he may profit by their reputation with the public, and the public, in turn, may be assured that they are getting that maker's wares. See *Amoskeag Manufacturing Co.* v. *Spear*, 2 Sandf. (N. Y.) 599, 605. Words, letters, numerals, or devices may be used as trade-marks. *Shaw Stocking Co.* v. *Mack*, 12 Fed. 707. But words which are merely descriptive and so can be applied equally well to other articles of a like kind may not be appropriated as trade-marks. CAL. CIV. CODE, 1906, § 991; *Caswell* v. *Davis*, 58 N. Y. 223. This principle applies to foreign as well as to English words. *Davis* v. *Stribolt*, 59 L. T. Rep. N. S. 854; *Burke* v. *Cassin*, 45 Cal. 467; *Selchow* v. *Chaffee & Selchow Mfg. Co.*, 132 Fed. 996. But if by long user a descriptive term comes to signify to the public the goods of this particular manufacturer, an imitator will be enjoined on the ground of unfair competition. *Reddaway* v. *Banham*, [1896] A. C. 199. Since, however, the essence of that wrong is the fraud of passing off one maker's products for those of another, the competition is not unfair if, as in the principal case, the packages of the two rival brands are so unlike in appearance that there can be no confusion. *Dadirrian* v. *Yacubian*, 72 Fed. 1010. See 16 HARV. L. REV. 272 *et seq.*

TRUSTS — RESTRAINTS ON ALIENATION OF CESTUI'S INTEREST — POSTPONEMENT OF ENJOYMENT. — The testatrix left property in trust for B, C, and D, providing in her will that the legacies should not be paid until D, the youngest legatee, should have arrived at the age of twenty-five years. Upon coming of age B sought to compel payment of the legacy. *Held*, that she is not entitled to it. *King* v. *Shelton*, 38 Wash. L. R. 714 (D. C., Ct. App., Nov. 2, 1910). See NOTES, p. 224.

WAGERING CONTRACTS — RENEWED PROMISE TO PAY FOR NEW CONSIDERATION. — In consideration of the defendant's renewed promise to pay the plaintiff an over-due gambling debt, the plaintiff refrained, for a specified time, from publishing him as a defaulter. *Held*, that the plaintiff can recover on the new contract. *Wilson* v. *Conolly*, 129 L. T. 572 (Eng., K. B. D., Oct. 14, 1910).

For the discussion of a precisely similar case, see 22 HARV. L. REV. 149. The reasoning of the courts seems unimpeachable, and the criticism directed against the decisions as "whittling away the Gaming Act" should, more properly, be directed towards the Act itself, for not frankly declaring that a wagering con-